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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,301	02/18/2004	Jordan Dawes	JDI001	4831
28848	7590	10/11/2005	EXAMINER	
TOPE-MCKAY & ASSOCIATES 23852 PACIFIC COAST HIGHWAY #311 MALIBU, CA 90265			SINGH, SUNIL	
			ART UNIT	PAPER NUMBER
			3673	

DATE MAILED: 10/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/781,301

Applicant(s)

DAWES, JORDAN

Examiner

Sunil Singh

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-66 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-66 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

The examiner cited numerous art that read on applicants broadly recited claims. However, in order to reduce the length of the office action the examiner did not apply every piece of art that anticipates applicants' claims. Applicant should carefully review all cited material and amend claims to define over them.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-66 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 functionally recites "an attachment"; however, claims 7 and 22 positively recite such limitation. This is confusing. Is applicant intending to positively claim the attachment or not?

Claim 10 cannot depend from claim 9 since claim 9 requires for the attachment to be a "handcuff", then claim 10 is saying the attachment is a strap. This applies for any "attachment" version depending from claim 9 that does not further limit the handcuff but instead recites an alternative to the "attachment".

Claims 26 and 27 are confusing because each of their preambles is directed to an enhancer; however each enhancer comprises more than one enhancer makes no sense.

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Claim 34, "the support member securing mechanism" lacks clear antecedent basis.

Claim 34 functionally recites "an attachment"; however, claims 40 and 56 positively recite such limitation. This is confusing. Is applicant intending to positively claim the attachment or not?

Claims 60 and 61 are confusing because each of their preambles is directed to an enhancer; however each enhancer comprises more than one enhancer makes no sense.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, 22-23, 25,28,29-30,32,33,34-37, 55,56-57,59,62-63,65-66 are rejected under 35 U.S.C. 102(b) as being anticipated by clearly anticipated by Shepherd (US 2696963).

Shepard discloses a device comprising a support member (25,30), a fastener (see Fig. 3, (40)), a support member securing mechanism (12) having an attachment portion (26). An attachment (see Figs. 3,10). Telescoping tube (see col. 2 line 15+).

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Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4-14, 19,20, 38-47, 52,53,are rejected under 35 U.S.C. 103(a) as being unpatentable over Shepherd in view of McConnell (US 4576501).

Shepherd discloses the invention substantially as claimed. However, Shepard is silent about the support member securing mechanism having a stop mechanism and allowing for a support to be pivotable therewith. McConnell teaches support member securing mechanism (see Figs. 5,6, (60) having a stop mechanism and allowing for a support (14,16) to be pivotable therewith. It would have been considered obvious to one of ordinary skill in the art to modify Shepherd to include the stop mechanism as taught by McConnell in order to orient the attachment device in a desired position.

Re claims 7, 40, see Fig. 10 of Sheppard.

With regards to claims 9, 42, it would have been considered obvious to use an handcuff as an attachment since such a modification can prevent a prisoner who is being treated at a hospital from escaping.

Insofar claims 10-12, 43-45, are understood, it would have been considered obvious to modify Sheppard to include such limitations.

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7. Claims 15-18, 48-51, are rejected under 35 U.S.C. 103(a) as being unpatentable over Sheppard in view of McConnell as applied to claims 14, 47 above, and further in view of Matsuoka (US 2909345).

Sheppard (once modified) discloses the invention substantially as claimed. However, Sheppard is silent about his support being arcuate and his securing mechanism being flat. Matsuoka teaches a support being arcuate and securing mechanism being flat (see Figs. 1,4). It would have been considered obvious to one of ordinary skill in the art to further modify the (once modified) Sheppard to have an arcuate shaped support member and flat securing mechanism as taught by Matsuoka in order to make the enhancer more versatile by being able to position the enhancer at the center of a bed.

8. Claims 21, 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sheppard in view of Matsuoka (US 2909345).

Sheppard discloses the invention substantially as claimed. However, Sheppard is silent about his securing mechanism being flat. Matsuoka teaches a securing mechanism being flat (see Fig. 4). It would have been considered obvious to one of ordinary skill in the art to modify Sheppard to have a flat securing mechanism as taught by Matsuoka in order to make the enhancer more versatile by being able to position the enhancer at the center of a bed.

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9. Claims 24,58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shepherd.

Shepherd discloses the invention substantially as claimed. However, Shepherd is silent about the attachment comprising a handcuff. It would have been considered obvious to use an handcuff as an attachment since such a modification can prevent a prisoner who is being treated at a hospital from escaping.

10. Claims 31,64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sheppard in view of Matsuoka (US 2909345).

Sheppard discloses the invention substantially as claimed. However, Sheppard is silent about his support being arcuate. Matsuoka teaches a support being arcuate (see Figs. 1). It would have been considered obvious to one of ordinary skill in the art to modify Sheppard to have an arcuate shaped support member as taught by Matsuoka in order to make the enhancer more versatile by positioning an attachment closer to a patient.

Response to Arguments

11. Applicant's arguments with respect to claims 1 and 34 have been considered but are moot in view of the new ground(s) of rejection.

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Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sunil Singh whose telephone number is (571) 272-7051. The examiner can normally be reached on Monday through Friday 10:30 AM - 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (571) 272-7049. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sunil Singh
Primary Examiner
Art Unit 3673



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9/26/05